

Financial Services and the World Trade Organization

Liberalization Commitments of the Developing and Transition Economies

Aaditya Mattoo

Financial services negotiations through the World Trade Organization have helped many developing and transition economies develop more stable and transparent policy regimes, and their commitments in no way compromise their ability to pursue sound macroeconomic and regulatory policies. But the Asian and Latin American participants, especially, held back on commitments to financial liberalization. And there was less emphasis on introducing competition by allowing new entry than on allowing (or maintaining) foreign equity participation and protecting the position of incumbents.

The World Bank
Development Research Group
Trade
September 1999



Summary findings

Mattoo analyzes the results of the financial services negotiations under the World Trade Organization's General Agreement on Trade in Services (GATS).

He shows that the negotiations have contributed to more stable and transparent policy regimes in many developing and transition economies and that the commitments in no way compromise the countries' ability to pursue sound macroeconomic and regulatory policies.

But even though the number of countries that participated in the eventual agreement was impressive, the liberalizing content of commitments was in many cases quite limited.

Numerical estimates suggest that in general the African and Eastern European participants made much more

liberal commitments than the Asian and Latin American participants. On the whole, the outcome probably reflects how each participant balances the benefit of unilateral commitments against the benefit of retaining bargaining chips for future multisectoral negotiations.

Two aspects of the outcome cause concern:

- There has been less emphasis on introducing competition by allowing new entry than on allowing (or maintaining) foreign equity participation and protecting the position of incumbents.
- Where it was deemed infeasible to introduce competition immediately, participants have taken little advantage of the GATS to lend credibility to liberalization programs by precommitting to future market access.

This paper — a product of Trade, Development Research Group — is part of a larger effort in the group to advance research on trade in services. Copies of the paper are available free from the World Bank, 1818 H Street NW, Washington, DC 20433. Please contact Lili Tabada, room MC3-333, telephone 202-473-6896, fax 202-522-1159, Internet address ltabada@worldbank.org. Policy Research Working Papers are also posted on the Web at <http://www.worldbank.org/html/dec/Publications/Workpapers/home.html>. The author may be contacted at amattoo@worldbank.org. September 1999. (53 pages)

The Policy Research Working Paper Series disseminates the findings of work in progress to encourage the exchange of ideas about development issues. An objective of the series is to get the findings out quickly, even if the presentations are less than fully polished. The papers carry the names of the authors and should be cited accordingly. The findings, interpretations, and conclusions expressed in this paper are entirely those of the authors. They do not necessarily represent the view of the World Bank, its Executive Directors, or the countries they represent.

Financial Services and the World Trade Organization

Liberalization Commitments of the Developing and Transition Economies

Aaditya Mattoo

Key words: financial services, GATS, trade liberalization

JEL classification: F13, G28, K33

*World Bank, 1818 H Street NW, Washington, DC.

email: amattoo@worldbank.org

The insightful comments of B. L. Das, Zdenek Drabek, David Hartridge, Masamichi Kono, Patrick Low, Hamid Mamdouh, Ludger Schuknecht, Arvind Subramanian and Welf Werner are deeply appreciated. Sudesh Morarjee and Malina Savova provided valuable research assistance.

Financial Services and the WTO:

Liberalization Commitments of the Developing and Transition Economies

1. INTRODUCTION

After failure to agree at the end of the Uruguay Round, and after reaching an interim agreement in July 1995, the negotiations on financial services in the context of the General Agreement on Trade in Services (GATS) were finally concluded in December 1997. The largest service sector, including banking, insurance and other financial services, was now fully subject to multilateral trade rules. Not only did the agreement consolidate the relatively open policies of industrial countries which account for much of world trade in financial services, it also elicited wide participation from both developing countries and countries in transition.

This paper studies the commitments on financial services that have been made by close to one hundred developing countries and all the Eastern European Members of the WTO. Earlier research by Kono et al. (1997), Sorsa (1997) and Kono and Low (1996) took stock of what had been achieved by July 1995.

This paper first updates and deepens the previous analyses of commitments, and then examines some of the economic implications. The next section describes how financial services fit into the GATS framework, and examines whether broader economic concerns justify limiting the scope of commitments. Section III analyses the pattern of market access commitments of the developing countries and countries in transition. Section IV examines the relationship between the GATS commitments and the domestic reform process. Section V discusses the economic implications of allowing foreign participation through equity ownership in existing financial institutions rather than through new entry. Section VI concludes the paper.

2. THE GATS FRAMEWORK AND FINANCIAL SERVICES LIBERALIZATION

No attempt is made here to provide a comprehensive picture of the GATS and how it works.¹ Rather, brief mention is made of those features of the Agreement that are relevant to the discussion that follows. The GATS covers all measures taken by Members affecting trade in services and all service sectors.² The Agreement is unusual in taking a wide view of what constitutes trade, and defines trade in services as the supply of a service through any of four modes. Mode 1 deals with cross-border supply of a service, which is analogous to international trade in goods, in that a product (service) crosses a national frontier; e.g. the taking of a loan or the purchase of insurance cover by a consumer from a financial institution located abroad. Mode 2 involves consumption abroad, including the movement of consumers to the territory of suppliers; e.g. the purchase of financial services by consumers while travelling abroad.³ Mode 3 is of crucial significance, and entails the commercial presence of a supplier of one Member in the jurisdiction of another Member; e.g. when a foreign bank or other financial institution establishes a branch or subsidiary in the territory of a country and supplies financial services. By defining trade to include sales through commercial presence, the Agreement includes in its domain foreign direct investment, which accounts for a large share of all services transactions, particularly in financial services. Mode 4 covers the supply of services through the presence of natural persons, e.g. independent financial consultants or bank managers, of one Member

¹For fuller treatments of GATS, see Hoekman (1995), Low (1995) and Mattoo (1997).

²The only explicit sectoral exclusion from GATS is certain "hard" rights in the aviation sector.

³However, the Explanatory Note on Scheduling Commitments (GATT Document GNS/MTN/W/164) gives examples of Mode 2 which do not necessarily involve the physical movement of the consumer to the location of the supplier - for instance, when a consumer's property alone moves abroad, as in the case of ships being repaired abroad. This creates some fuzziness in the distinction between Modes 1 and 2.

in the territory of another Member.

Certain GATS obligations apply across-the-board, while others depend on the sector-specific commitments assumed by individual Members. The first of the important general obligations is *transparency* which requires *inter alia* that each Member publish promptly "all relevant measures of general application" affecting trade in services. The second is the *most-favoured-nation* (MFN) principle which prevents Members from discriminating among their trading partners. The Agreement, however, permits Members to list temporary exemptions to MFN.⁴ In the case of financial services, a number of MFN exemptions had been maintained when the preceding round of negotiations were concluded in mid-1995, some of which reserved the right to apply reciprocity as a basis for granting market access.⁵ One of the key objectives of the extended negotiations was to achieve the removal of such exemptions and reach a full MFN-based result.

The liberalizing content of the GATS depends on the extent and nature of sector-specific commitments assumed by individual Members. The core provisions of the GATS in this context relate to *market access* (Article XVI) and *national treatment* (Article XVII). These provisions apply only to sectors explicitly included by a Member in its schedule of commitments and there too are subject to the limitations that a Member has scheduled. It is worth emphasizing that GATS commitments are

⁴ The exemptions are subject to review and should, in principle, not last more than ten years.

⁵ Among them was the MFN exemption of the United States, which reserved the right to discriminate between trading partners with respect to new entry or the expansion of existing activities, in order to "protect existing activities of United States service suppliers abroad and to ensure substantially full market access and national treatment in international financial markets." See Key (1997).

guarantees, and the absence of such guarantees need not mean that access to a particular market is denied. In fact, as will be shown later, there are several markets where conditions of access are more liberal than those bound under the GATS.

The *market access* provision prohibits six types of limitations, unless they have been inscribed by a Member in its schedule. These are: (a) limitations on the number of suppliers; (b) limitations on the total value of service transactions or assets; (c) limitations on the total number of service operations or on the total quantity of service output; (d) limitations on the total number of natural persons that may be employed; (e) measures which restrict or require specific types of legal entity or joint venture; and (f) limitations on the participation of foreign capital. In scheduled sectors, the existence of any of these limitations has to be indicated with respect to each of the four modes of supply, described above.

National treatment is defined under Article XVII in the traditional GATT manner, as treatment no less favourable than that accorded to like domestic services and service suppliers. In contrast to the GATT approach, however, Members may inscribe limitations on national treatment in their schedules - with respect to each of the four modes of supply, as in the case of the market access provision.⁶

GATS commitments and wider policy concerns

Is there reason for Members to hold back on GATS commitments in order to retain the freedom to

⁶ The main reason why negotiators eschewed the GATT approach of making national treatment an overarching principle of general application, is because granting market access with full national treatment would have been the equivalent of establishing free trade, whereas governments wanted the option of adopting a more gradual and conditioned approach to opening up their markets. Some have suggested that it may be desirable to replicate a goods-like regime in services with full national treatment and bound taxes on foreign providers which would be progressively negotiated down.

pursue certain policy objectives? The following discussion shows that commitments under GATS need not compromise the ability of governments to pursue sound regulatory and macroeconomic policies and leave them considerable freedom to achieve other domestic policy objectives.⁷

First consider *prudential regulation*. In financial services, specific commitments are made in accordance with the Annex on financial services which complements the basic rules and definitions of the GATS taking into account the specific characteristics of financial services. Of particular significance is Paragraph 2(a) which states that:

Notwithstanding any other provisions of the Agreement, a Member shall not be prevented from taking measures for prudential reasons, including for the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owed by a financial service supplier, or to ensure the integrity and stability of the financial system.

The same paragraph goes on to say that where prudential measures do not conform with other provisions of the GATS, they must not be used as a means of avoiding commitments or obligations under the Agreement.⁸ Nevertheless, regulators would seem to have considerable discretion in their choice of prudential measures – especially since no definition or indicative list of such measures is provided in the Annex.⁹

⁷See Kono et al. for a more detailed discussion (1997).

⁸This language differs from and is weaker than that in Article XIV dealing with General Exceptions in that it does not require that the measures be *necessary* to achieve the stated objectives.

⁹ Such measures presumably include capital adequacy requirements, restrictions on credit concentration or portfolio allocation, and disclosure and reporting requirements, as well as licensing criteria imposed on financial institutions which are not more

Consider now *macroeconomic policy* in general. When a central bank conducts open market operations, for example, conditions in the financial sector could be affected through the impact of such interventions on the money supply, interest rates or exchange rates. It is notable that services supplied in the exercise of governmental authority, including activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies, are excluded from the scope of the GATS.¹⁰ Furthermore, a wide range of measures for macroeconomic management, such as reserve requirements on banks, could presumably be justified as measures to ensure the integrity and stability of the financial system under the terms of the Annex on Financial Services.

How far do GATS commitments oblige a Member to allow capital mobility? GATS rules on this subject can be summarised as follows. If a Member undertakes a market access commitment in relation to the cross-border supply of a service and if the cross-border movement of capital is an essential part of the service itself, that Member is committed to allow such movement of capital. Furthermore, if a Member undertakes a market access commitment in relation to the supply of a service through commercial presence, that Member is committed to allow related inflows of capital into its territory. Thus, Members do not have any obligations with respect to capital flows related to consumption

burdensome than necessary to ensure the solvency and the healthy operation of those institutions. As Kono and Low (1997) argue, the continuing process of regulatory harmonization and enhanced cooperation between financial regulators and supervisors in the context of the BIS (Bank for International Settlements) and IOSCO (International Organization of Securities Commissions) as well as in other international fora provide useful background in maintaining discipline in the introduction and implementation of prudential measures based on this provision.

¹⁰Under Article I:3 of the GATS and the Annex on Financial Services.

abroad, and with respect to capital outflows related to commercial presence.¹¹ Furthermore, the Agreement also allows a Member to impose restrictions on current or capital transactions in the event of serious balance-of-payments and external financial difficulties or the threat thereof (Article XII).¹²

Finally, consider the *other domestic regulations* that governments maintain, which are not prudential in nature, but which nevertheless can affect the conditions of operation and competition in a market. Such measures could include, for example, a requirement to lend to certain sectors or individuals, or lending mandated on the basis of preferential interest rates. Even though such measures may not be the most efficient means of achieving particular objectives, these policies are not necessarily subject to commitments made under the GATS. If they are neither discriminatory nor intended to restrict the access of suppliers to a market, then such domestic regulatory measures would be permitted provided they met certain basic criteria, such as impartiality and objectivity (specified in Article VI of the GATS).¹³

3. MARKET ACCESS COMMITMENTS IN FINANCIAL SERVICES

¹¹ This can be inferred by reading Article XI, the provision on international payments and transfers together with footnote 8 to Article XVI, the market access provision.

¹²Article XII stipulates that the restrictions shall not discriminate among Members, shall be consistent with the Articles of Agreement of the Fund, and shall be temporary and be phased out progressively as the situation improves.

¹³There has often been concern about the potential for selective servicing by foreigner suppliers. It is feared that the latter will only service profitable market segments and that the resulting underprovision of retail banking in rural areas, for example, could then have detrimental effects on the economy. It would seem possible under GATS to impose certain requirements, such as universal service obligations, as part of licensing requirements provided these do not discriminate between foreign and domestic financial institutions. Social objectives could then be met without sacrificing the efficiency benefits of competition.

This study focuses on the commitments of 105 developing and transition country Members of the WTO.¹⁴ The countries are divided into four geographical groups: Africa (41 countries, 1.5 per cent share of all Members' GDP), Asia and the Pacific (25 countries, 7.6 per cent share), Eastern Europe (7 countries 1.1 per cent share), and Latin America, including the Caribbean (32 countries, 6.2 per cent share).

The GATS Schedules of commitments are complex documents, containing for each Member, market access, national treatment and additional commitments, on up to sixteen sub-sectors of financial services,¹⁵ with respect to each of the four modes. In order to capture the essential elements of these commitments without complicating the analysis unduly, this paper focuses on the following:

- (i) Within insurance, on *direct insurance, both life and non-life*, and within banking and other financial services, on *acceptance of deposits and lending of all types*. These services constitute the core of the financial services sector. Although securities-related services are of increasing importance in developing countries, they are excluded from the current study for reasons of

¹⁴At the time of writing, the WTO had a total membership of 132. Members account for 95 per cent of world GDP. China and Russia are two major countries which are not yet Members.

¹⁵Financial services under the GATS consist of insurance services and banking and other financial services. Insurance services encompass direct insurance (life and non-life), reinsurance and retrocession, insurance intermediation, and auxiliary insurance services (including consultancy, actuarial, risk assessment and claim settlement services). Banking and other financial services are defined under GATS to include acceptance of deposits, lending, financial leasing, payment and money transmission services, guarantees and commitments, trading (in money market instruments, foreign exchange, derivative products, exchange rate and interest rate instruments, transferable securities, and other negotiable instruments and financial assets), participation in issues of securities, money broking, asset management, settlement and clearing services, provision and transfer of financial information (including data processing), and advisory and intermediation services.

space.

- (ii) On the first three modes, *cross-border supply, consumption abroad and commercial presence*.

The fourth mode, the presence of natural persons, may be less important in this sector, than in others, such as professional services. The commitments of countries on the fourth mode are, in any case, almost uniformly limited to the intra-corporate transfer of managers, executives and specialists.

- (iii) *Market access commitments*: Given the structure of the GATS and scheduling practice, the extent of guaranteed liberalization depends crucially on the commitments to provide market access. These commitments determine whether foreign services and service suppliers are assured of the right to enter the market. Furthermore, any measures inconsistent with both Article XVI (market access) and Article XVII (national treatment) are scheduled in the market access column of the schedule in accordance with Article XX:2.¹⁶ Finally, most of the entries in the national treatment column are highly correlated with those in the market access column: liberal market access commitments are frequently accompanied by full national treatment commitments, and vice versa.¹⁷

In examining the level of commitments, three distinctions are made. These are between full bindings,

¹⁶It is not always clear from the entries in the market access column which measures simultaneously constitute limitations on national treatment. Furthermore, the extent to which a limitation in the market access column affects the commitment in the national treatment column is also debatable. For a discussion of these issues, see Mattoo (1997).

¹⁷Hoekman (1995), in his study of all Uruguay Round commitments, found that share of sectors for which the liberalization values for market access and national treatment were the same, was 89% for high income countries and 96% for other countries.

designated as a "none" entry against a particular mode of supply in the schedule, denoting the absence of any limitations; no bindings, which are designated "unbound" against the relevant mode; and the intermediate case of "limited" bindings, which refer to those entries which are conditioned in some way by a limitation. The limitation may be on coverage (sectoral, geographical, or modal), or in the form of a restrictive measure (which can be one or more of the six types of restrictions listed in Article XVI). Many Members impose restrictions on the legal form of commercial presence, requiring, for instance, presence in the form of locally incorporated entities rather than branches. In the following analysis, it is assumed that such restrictions are less burdensome than those which limit entry or the extent of foreign equity participation.¹⁸

¹⁸ Some Members appear to have inscribed prudential measures and other regulatory interventions in the schedules of specific commitments. An example is the frequent appearance of approval or authorization requirements which do not belong in the schedules if they are only meant to ensure that sound financial institutions enter the market. The paper attempts to make the sometimes difficult distinction between measures that restrict market access and/or national treatment, and therefore should be included in schedules, and those that pursue public policy objectives of a non-restrictive nature and should therefore be excluded from schedules.

a. Insurance

The results of the analysis are presented in Tables 1, 2 and 3.¹⁹ As Table 1 shows, over half the countries in the group being studied, accounting for 95 per cent of the GDP of non-developed Members, made commitments on direct insurance services. In both numerical and GDP-weighted terms, country participation was highest in Eastern Europe, where all WTO Members made commitments. Participation was lowest in Africa, where, out of 41 WTO Members, only 13 made commitments - but the participating countries accounted for four-fifths of African Members' GDP. Similarly, in Latin America, commitments were made by 18 (out of 32) countries, and in Asia, by 17 (out of 25) countries, but the participants accounted for more than 95 per cent of each region's GDP.²⁰

Before plunging into a more detailed description of the pattern of commitments in direct insurance, we present an overview of their liberalizing content, based on a particular approach to numerical estimation (Table 2). (The estimates for the individual countries, as well as the assumptions underlying these estimates, concerning the relative importance of the modes of supply in specific sub-sectors and the relative restrictiveness of different measures, are presented in Annex 1.) For the group of countries being studied here, the average value of the liberalization index in insurance is not high - a little less than one-half (compared with an average of around 0.70 for the group of developed countries), where 0 represents no commitments on any of the modes and 1 represents fully liberal commitments on all

¹⁹ Tables showing individual country commitments can be obtained from the author.

²⁰ All percentages are calculated by using the sum of the GDP of all countries in the region which are WTO Members. Thus, China's GDP, for instance, does not enter the calculations.

three.²¹ The commitments of African and Eastern European Members are more liberal than the all-country average. African Members' are placed ahead of the Eastern Europeans because of their willingness, in general, to make liberal commitments not only on commercial presence, but also on the first two modes. The commitments of the Asian Members, while less liberal than the average, were significantly more liberal than those of the Latin American Members.

There are significant differences between individual participating countries in the extent of binding and the restrictiveness of scheduled limitations (Tables 2 and 3). Full liberalization across all three modes is rare. Out of the 52 countries who made commitments on direct insurance, only 4 small countries, Bahrain, Gambia, Guyana and the Solomon Islands, together accounting for less than one-half per cent of participants' GDP, committed to removing all barriers. The only exception to the relative paucity of liberal commitments on the first two modes was Africa, where 5 countries, including relatively large Egypt and South Africa, guaranteed an absence of restrictions on consumption abroad.²² Otherwise, there was also hardly any evidence that countries were more willing to make fully liberal commitments with respect to consumption abroad than to cross-border supply.²³

²¹ The regional GDP weighted indices are generally lower than the simple averages, suggesting that within each region smaller countries have tended to be more forthcoming in liberal commitments than the larger countries.

²² Several countries such as Hong Kong, Israel, Malaysia, Peru do not allow soliciting or advertising under cross-border supply and consumption abroad.

²³ There are several reasons to expect more liberal commitments on consumption abroad than on cross-border supply. First, it could have been presumed that governments would be less concerned (or less able to do anything) about transactions which take place outside their jurisdiction than those which take place within their jurisdiction. Secondly, as noted above, while commitments on cross-border supply carry the obligation to allow any essential movement capital, those on consumption abroad do not. However, the lack of a clear distinction between the two modes may have made government's choose a cautious approach to scheduling.

In each of the regions, commercial presence is clearly the mode through which Members prefer to guarantee access to domestic markets for direct insurance services. As many as 19 countries, accounting for nearly a quarter of participants' GDP, guaranteed the absence of restrictions (other than on legal form) on commercial presence. Even though this is not evident from the numerical summary, Eastern Europe as a region represents potentially the most liberal market for foreign investment in direct insurance. The markets of 2 Members are already free from significant restrictions: Poland (only limitations on the investment abroad of insurance funds) and Romania (partnership is required with Romanian legal or natural persons). The restrictions in several other countries are transitory. In Bulgaria, supply by foreign majority owned firms will be allowed three years after accession. The Czech and Slovak Republics shall endeavour to eliminate or reduce the scope of their monopolies for certain types of compulsory insurance.²⁴ In Slovenia, branches are not allowed, and foreigners may not participate in the privatization of state-owned insurance companies, but the only restriction on new entry through subsidiaries, a 99 per cent limit on foreign equity, will soon be eliminated. In Hungary, branches are currently not allowed, but legislation permitting them is being prepared. Even though Hungary has listed an MFN exemption based on reciprocity with respect to commercial presence, it is

²⁴ The Czech and Slovak Republics are among the Members that have undertaken commitments using the Understanding on Commitments in Financial Services. This document provides a standardized list of liberalization commitments, including *inter alia* a general standstill commitment with respect to non-conforming measures, the granting of the right to establish commercial presence to foreign financial service suppliers, and a commitment to endeavour to eliminate monopoly rights in financial services or reduce their scope. Among the countries being studied here, Nigeria, Turkey, Bulgaria, Hungary and Sri Lanka (for banking and other financial services – excluding insurance) have also used the Understanding as a basis for their commitments.

not clear whether this would affect access to its market given its otherwise liberal commitments.²⁵

Next in degree of openness is Africa, where 7 out of the 13 countries, including Nigeria and South Africa, accounting for two-thirds of participants' GDP, impose no restrictions other than on the legal form of commercial presence.²⁶ Egypt, Gabon and Mauritius apply economic needs tests or discretionary procedures in allowing new entry, while Morocco has included a reciprocity condition in its schedule. Egypt is perhaps the only country in these negotiations which has specified the basis for carrying out an economics need test and has committed to relaxing the test in future. Egypt, Ghana and Kenya (in life insurance) impose equity limitations but Ghana and Kenya already allow majority foreign ownership. Egypt currently limits foreign equity to 49 per cent, but will raise the limit to 51 per cent in the year 2000 for life and 2003 for non-life insurance.

The number of assurances of fully open markets for foreign investors is higher in Asia and the Pacific (7 out of 17) than in Latin America (3 out of 18). Furthermore, several relatively large Asian markets (including Hong Kong, Indonesia, Israel and Turkey, accounting for 32 per cent of Asian participants' GDP) have no significant restrictions on the establishment of foreign commercial presence, but this is only true for the smaller Latin American economies (Guyana, Panama and Paraguay, accounting for only 1 per cent of Latin American participants' GDP).

The nature of restrictions in place in the two regions reveal an interesting difference: the Latin group seems primarily reluctant to guarantee free entry, whereas the Asian group seems reluctant also to

²⁵Since Hungary has also scheduled commitments according to the Understanding on Commitments in Financial Services, it has undertaken to grant financial service suppliers of other Members the right to establish commercial presence on an MFN basis.

²⁶South Africa, for instance, requires local incorporation.

assure full foreign ownership. In the Latin group, eleven Members (including Argentina, Brazil and Chile)²⁷ do not assure fully liberal entry conditions (i.e. unbound, subject to discretionary licensing, limitations or reciprocity conditions), two Members (Cuba and Mexico)²⁸ impose only equity limitations, and two (Dominican Republic and the Honduras) both. In the Asian group, entry limitations are accompanied in eight cases (including India²⁹, Malaysia, Philippines and Thailand) by restrictions on foreign equity as well, one Member (Korea³⁰) imposes only equity limitations whereas just one Member (Qatar) imposes only limitations on entry. The implications of these differences are discussed more fully in a subsequent section. However, the contrast between regions may be less stark than it appears because the discretion that Latin American countries retain to impose conditions on new entry could also apply to foreign equity participation.

²⁷Argentina has indicated that authorization of the establishment of new entities is suspended while Chile has indicated that the supply of financial services through commercial presence may be subject to an economic needs test. Brazil has indicated that the enactment of a Presidential decree is required to establish commercial presence. Such a decree is apparently necessary to overcome the constitutional barriers to the establishment of foreign enterprises and has reportedly served to facilitate entry. Nevertheless, in so far as there seems to be a need for a political decision to grant entry, the commitment cannot be regarded as fully liberal.

²⁸In Cuba's case, the foreign equity limitation is listed in the horizontal commitments and applies to all sectors. In Mexico's case, the equity limitation is aggregate for the whole sector rather than for a single enterprise, but Mexican control of each enterprise is required.

²⁹India is, in fact, the only participant in direct insurance which has left the commercial presence mode completely unbound. It, therefore, retains the discretion to impose any Article XVI restriction, including on entry and foreign equity.

³⁰Korea does not limit the foreign equity in new direct investment. However, it has indicated in its horizontal commitments, which apply to all sectors, that the acquisition of outstanding stocks of existing domestic companies is restricted. Furthermore, foreign portfolio investment in Korean stocks is permitted only for the stocks listed on the Korean stock exchanges. While individual foreign investors can own up to 6 per cent of each company's total stock, aggregate foreign investment in each company cannot exceed 23 per cent.

b. Banking

The results of the analysis are presented in Tables 1, 4 and 5. It is evident from Table 1 that there were more commitments in core banking services than in insurance: nearly two-thirds of the countries in our study group, accounting for 97 per cent of the GDP of non-developed Members, made commitments on the acceptance of deposits and lending of all types. Again, in both numerical and GDP-weighted terms, country participation was highest in Eastern Europe (all WTO Members made commitments) and lowest in Africa (18 countries out of 41, accounting for 84 per cent of the region's GDP). But African participation in banking, as well as that of Asian and Latin American countries, was higher than in insurance.

We begin again with an overview of the liberalizing content of commitments, based on our numerical estimates (Table 4). The average value of the liberalization index for banking for the developing and transition countries is not high - a little over one-half (compared with an average of around 0.75 for the group of developed countries).³¹ Again, the smaller countries have generally tended to be more forthcoming in liberal commitments than the larger countries. As in insurance, the commitments of African and Eastern European Members are more liberal than the all-country average while those of the Asian and Latin American Members are below average. But there are some notable differences from the pattern in insurance. While Africa again leads in openness for the acceptance of deposits, it is second to Eastern Europe in openness for lending. And in banking, it is the Latin Americans which have on average made more liberal commitments than the Asians.

³¹ Although the value of the index for banking is slightly higher than that for direct insurance, the difference is not statistically significant.

The variation within participating countries in the extent of binding and the restrictiveness of scheduled limitations is again evident (Tables 1 and 5). Full liberalization across all three modes is slightly less rare in banking than in insurance. The 10 countries which have guaranteed virtually unconstrained access by all modes of supply, however account for only 1 per cent of participants' GDP and include only the smaller economies: 5 are in Africa (Ghana, Kenya, Malawi, Mozambique and Sierra Leone), 2 in the Pacific (Papua New Guinea and the Solomon Islands) and 3 in the Latin American group (Guyana, Haiti and Panama).

The number of liberal commitments on the first two modes was significantly higher than those in insurance. Over half of the Asian participants (including Hong Kong, Indonesia, the Philippines and the UAE) committed to liberal consumption abroad, and nearly one-third to liberal cross-border supply (including Indonesia and several smaller economies). In Africa, nearly half the participants guaranteed unrestricted access by each of the first two modes, but in Eastern Europe and Latin America, very few Members were prepared to do so. Only in Asia was there any evidence that countries were more willing to make liberal commitments with respect to consumption abroad than cross-border supply.

The number of fully liberal commitments for foreign investors in banking (mode 3) were on the whole comparable to those in insurance: 26 participants, accounting for over a fifth of participants' GDP. However, the regional pattern was different. Asia was the only region where fewer countries assured full openness under mode 3 than under each of the first two modes. In all other regions, the pattern in insurance was more or less repeated, with commercial presence being the relatively most liberalized mode. The numerical summary (Table 1) reveals that 5 out of the 7 countries of Eastern Europe, accounting for 79 per cent of regional participant's GDP, already represent the most liberal markets as

far as commercial presence is concerned. In Slovenia, there is an element of discretion in licensing³² and foreigners may not participate in the privatization of state-owned insurance companies, but the former restriction is to be removed after the adoption of a new Law on Banking. Hungary's reciprocity-based MFN exemption with respect to commercial presence prevents its market from being classified as fully open.

Again, it is Africa which is next in degree of openness, with 10 out of the 18 countries, accounting for 78 per cent of the region's GDP, guaranteeing virtually unconstrained rights of commercial presence. In addition to the countries which impose no restrictions on any mode (named above), Egypt, Lesotho, Nigeria, and South Africa are fully open to investment.³³ Among the less open markets are Benin, Gabon, Mauritius and Tunisia which apply economic needs tests or discretionary procedures in allowing new entry, and Zimbabwe which imposes a 60 per cent limit on foreign equity. Morocco applies a reciprocity condition to commercial presence as well as discretionary limits on foreign equity participation. Gambia is the only country which has left the commercial presence mode unbound in the core banking services.

The number of countries which guarantee free access to foreign investors is higher in Latin America than in Asia and the Pacific - reversing the picture in insurance. In Latin America, the 8 such markets (including Argentina, Panama and Paraguay) account for a fifth of the regional participants' GDP, whereas the 3 such markets in Asia and the Pacific (Israel, Papua New Guinea and the Solomon

³²The Schedule states that the Bank of Slovenia shall, when considering issuing a license, take into account inter alia "the national economic preferences for certain banking activities."

³³Egypt imposes no restrictions on joint venture banks, other than the requirement of approval for individual share ownership above certain limits, but it does impose an economic needs test on the branches of foreign banks.

Islands) account for only one-twentieth of the regional participants' GDP. However, the nature of restrictions in place in the two regions mirrors that in insurance. In the Latin group, 9 Members (including Chile, Colombia, Peru and Venezuela)³⁴ impose only entry restrictions of some form (either unbound, limited, subject to discretionary licensing or a reciprocity condition), 1 Member (Mexico) only equity limitations (aggregate for the sector), and 2 (Brazil³⁵ and the Dominican Republic) both. In the Asian group, entry limitations are accompanied in 10 cases (including India³⁶, Indonesia, Korea³⁷, Malaysia, Pakistan³⁸, Philippines and Thailand) by restrictions on foreign equity as well, 1

³⁴Chile and Colombia both apply an economic needs test for commercial presence. Peru has indicated in its horizontal commitments that mode 3 is unbound except for certain aspects, while Venezuela has indicated a reciprocity requirement in its schedule. Both Peru and Venezuela have also listed reciprocity-based MFN exemptions.

³⁵In Brazil's case the discretionary element is more explicit in banking than in insurance. Its commitment states that the "establishment of new branches and subsidiaries of foreign financial institutions, as well as increase in the participation of foreign persons in the capital of financial institutions incorporated under Brazilian law, is only permitted when subject to a case-by-case authorization by the Executive Branch, by means of a Presidential decree."

³⁶Since India allows entry only through branches (restricted to 12 per annum), this amounts to a prohibition on foreign equity participation.

³⁷The inclusion of Korea in this category may need some explanation. The foreign participation restrictions specified in Korea's horizontal commitments apply to banking as they do to insurance. The situation with respect to new entry is less clear. The relevant text states that "only branches of foreign banks which rank among the world's top 500 banks in terms of assets size or representative offices are permitted." It is not clear whether presence in the form of banking subsidiaries is allowed (particularly since the text in insurance explicitly mentions that subsidiaries are permitted.) Furthermore, it is not clear whether the restriction of branching rights to the top 500 banks should be considered a prudential measure given the performance of certain banks in this category. In any case, these issues may soon cease to be relevant if Korea's recent liberalization measures, discussed below, are reflected in its schedule.

³⁸In addition to stipulating foreign equity limitations, Pakistan has included a reciprocity condition in its schedule, and also listed

country (Bahrain) imposes only equity limitations whereas 4 (including Hong Kong³⁹ and the UAE) impose only limitations on entry.

Another difference is the frequency in Asia of numerical restrictions on branches of foreign banks. In Latin America, several countries, such as Colombia and Costa Rica, do not allow entry through branches but most (with the exception of Brazil and Venezuela) do not impose any subsequent restrictions on the scale of operations. Interestingly, India is the one country which allows entry only in the form of branches of foreign banks licensed and supervised as banks in the home country. This may reflect the desire to shift the regulatory and supervisory burden to the home country.

4. THE ROLE OF GATS IN THE DOMESTIC REFORM PROCESS

The rest of this paper addresses two questions. First, how does the level of commitments made by countries under the GATS relate to and affect their actual policies? Secondly, does the pattern of liberalization implied by the commitments reflect socially desirable choice of policy? This section considers the first question, the second is dealt with in the next section.

A notable feature of the negotiations in financial services is that they did not take place in the usual

an MFN exemption based on reciprocity.

³⁹Hong Kong imposes no restrictions on lending. However, in order to obtain a full banking license for the acceptance of deposits, the financial institution "must have been an authorized institution for at least ten years and be closely associated and identified with HKSAR." Furthermore, acquisition of an existing locally incorporated bank by an overseas bank requires the consent of the Monetary Authority.

context of a multi-sectoral and multi-issue round of negotiations. Although this had, of course, been the original intention, failure to complete the negotiations before the end of the Uruguay Round effectively turned financial services into a single-sector negotiation. This tended to divide countries into those that looked for export gains and those whose focus could only be the conditions of competition in the domestic market. Despite the absence of any possibility for cross-sectoral trade-offs, or for improvements in the policy environment facing exports for those without export potential in financial services, we have seen that many governments being studied here did make new commitments.⁴⁰

One reason for the willingness of governments to make liberalization commitments may well have been the realization not only that liberalization was a good idea, but that the WTO offered a useful instrument for consolidating and promoting liberalization, as well as defining and tying down future liberalization plans in a legal sense. Many developing countries may also have seen WTO commitments as a way of signalling their seriousness to potential foreign investors and strategic partners. However, the relatively low level of liberalization commitments from many developing countries suggests that the arguments for making commitments were tempered by other considerations, some of which are discussed below.

In broad terms, governments have adopted three different approaches to the financial services negotiations, assuming that they participated at all. These are: (i) to bind the *status quo*, which may

⁴⁰But several countries, including Hungary, Mauritius, Pakistan, Peru, Philippines and Venezuela, maintained MFN exemptions in their schedules which state that access may be granted on a reciprocal basis. Given the structure of the GATS, regardless of the MFN exemption, the benefits of specific commitments made by these Members must be extended to all other Members on a non-discriminatory basis. Thus the exemption has meaning only where commitments have not been made, or where it is used to provide better treatment to some Members than specified in their schedules.

have been arrived at after liberalization, either unilateral or in the context of the negotiations; (ii) to make binding commitments that represent less than the *status quo* in policy terms; and (iii) to promise future liberalization, which may or may not have been planned prior to the negotiations. These categories are not necessarily mutually exclusive when the set of a country's commitments is taken as a whole, nor is it always easy to determine the precise category in which a policy position should fall. The distinctions are useful, however, in thinking about the relationship between WTO negotiations and domestic liberalization processes.

a. Binding the Status Quo

Governments binding at the *status quo* signalled that existing market conditions are guaranteed. Even though much greater knowledge of national regimes than is available would be required to make a definitive judgement, it would seem that most of the commitments made by countries covered in this paper were of the *status quo* variety. Consolidation of the *status quo* clearly has positive value, and it is the easiest thing for governments to do while signalling a positive intent and a commitment to the trading system. The pervasiveness of *status quo* bindings has, however, been sometimes held out as evidence of the failure of the GATS to generate meaningful liberalization. But it is important to recognize that in many cases, the *status quo* itself was reached after recent liberalization, either unilateral or during the course of negotiations.⁴¹

The improvements in commitments by countries since the last round of negotiations ended in mid-1995

⁴¹The precise impulse for liberalization is difficult to identify. In any case, as noted above, for most countries studied here, there were no immediate benefits in terms of improved access to foreign markets, so, in addition to any foreign political pressure and the promise of future rewards, the motive for liberalization must have been based on domestic policy considerations.

provide some idea of the extent of recent liberalization.⁴² The clearest evidence exists for the Eastern European countries. Several (like the Czech Republic, Slovak Republic and Slovenia) gave up the possibility of discretionary licensing in banking based on economic needs, while others (like the Czech Republic in air transport insurance) eliminated monopolies in certain areas of insurance. Several countries (like Bulgaria in insurance) allowed commercial presence through branches while others liberalized cross-border trade and consumption abroad (like Poland with respect to insurance of goods in international trade). Liberalizing trends are also visible in other regions: some countries (like Brazil) replaced prohibitions on foreign establishment with a case-by-case authorization requirement and some liberalized cross-border trade (for instance, the Philippines with respect to marine hull and cargo insurance).

It is notable that many of the improvements pertained to relaxation of foreign equity limitations. For instance, Malaysia agreed to raise foreign equity limits in insurance on incorporation of existing branches (and for original owners who had been forced to divest) from 49 per cent to 51 per cent. Mexico raised its limits on foreign participation from 30 per cent of common stock to 40 per cent of common stock (plus 30 per cent and 40 per cent of non-voting common stock in insurance and banking, respectively), Kuwait allowed up to 40 per cent foreign participation in banks and Singapore up to 49 per cent in local insurance companies. Egypt and El Salvador completely removed the limits on foreign ownership of shares in banks (previously at 51 per cent and 50 per cent, respectively). Ghana removed the requirement that at least 20 per cent of the capital of insurance companies be owned by the government and allowed foreign partners to obtain management control of local firms. Hong Kong removed a requirement that made eligibility for new full banking licenses contingent on ownership

⁴²Unless, of course, there was significant binding below the status quo in 1995, which Sorsa (1997) argues was the case. This Section relies on research by Masamichi Kono.

predominantly by Hong Kong interests, and Kenya no longer requires that one-third of the equity in non-life insurance companies be held by Kenyan citizens.

b. Binding Below the Status Quo

Several countries bound at less than *status quo*, at least with respect to certain aspects of their regimes. The Philippines, for example, did so with respect to foreign equity participation in commercial banks: binding at 51 per cent when domestic law allows 60 per cent.⁴³ Korea also stopped short of reflecting in its GATS offer all the present and future liberalization commitments made at the OECD: for instance, in the GATS offer foreign portfolio investment in listed companies is bound at 23 per cent, but in the OECD Korea is committed to raising this ceiling progressively and eliminating it by the end of the year 2000.⁴⁴ While any binding at all provides an identifiable measure of security of market access, the value of a binding at below *status quo* is attenuated by the scope it gives a government to worsen existing conditions of market access without violating a GATS commitment.⁴⁵

⁴³Where a binding involving foreign equity limitations is less than the level actually allowed to any investor subsequent to the entry into force of the commitments, the MFN principle will have the practical effect of “ratcheting up” the equity limitation commitment. This is because a new entrant could demand the same level of equity participation on MFN grounds as that granted to another supplier.

⁴⁴Furthermore, under the terms of the IMF agreement, the de facto regime with respect to foreign capital is already more liberal than the GATS offer. For instance, the new president Kim Dae-Jung was quoted as saying that “From now on there is no need for discrimination between indigenous and foreign capital. We are living in an era where foreign investment is more important than foreign trade.” (Financial Times, 29 December 1997).

⁴⁵See Francois and Martin (1996) for a formal development of this argument in relation to tariff bindings.

Why would countries choose to bind less than the status quo? The econometric study by Mattoo and Schuknecht (1999) suggests at least two sorts of reasons. First, domestic macroeconomic instability and regulatory weaknesses appear to have had a negative impact on the level of commitments. Secondly, membership of international trade coalitions, such as the groups of agricultural and textile and clothing exporters, was in general associated with a lower level of commitments.⁴⁶ This suggests that even small countries that do not have much bargaining power on their own in negotiations, may nevertheless have chosen to retain bargaining chips for future multi-sectoral negotiations when they were part of trade coalitions. Even though such mercantilistic bargaining, and concern with reciprocity, are often judged inappropriate and damaging, it is nevertheless true that countries could benefit additionally if their trading partners were also to liberalize.⁴⁷ Furthermore, from a political standpoint, governments may be able to garner greater domestic support for liberalization, including through building cross-sectoral coalitions, if other governments are liberalizing in areas of their export interest at the same time.

The "grandfather" provisions

One of the central problems in the negotiations were solved by a scheduling innovation. The conflict arose because certain countries were unwilling to make commitments which reflected the *status quo* with respect to commercial presence. Thus, they were either inclined to bind foreign ownership levels below those which currently prevailed, or insist on legal forms (local incorporation) other than those currently in the market (branches), or both. The problem arose because policy regimes had become more restrictive than those that prevailed when the incumbent foreign firms first entered, e.g. in Malaysia, where the indigenisation policy was being implemented after the establishment of many

⁴⁶ This is probably not true of the developed country members of the Cairns Group.

⁴⁷ For an analytical exploration of some of these issues, see Bagwell and Staiger (1996).

foreign firms.⁴⁸ The negotiated solution was to drive a wedge between the conditions facing firms which were already present and those which would enter when the commitments came into effect. In effect, the privileged situation of existing firms was "grandfathered".⁴⁹

The three types of grandfathering provisions, *foreign equity-related*, *legal form-related* and *general*, which are to be found in the financial services schedules are shown in Table 6. It is evident that grandfathering was primarily an Asian phenomenon. The grandfathering provisions reflect the relative emphasis in these negotiations on guaranteeing the rights of incumbents. They provide the benefits of security to investors who are already present in the market rather than to *new* investors. Furthermore, they may even place new entrants at a competitive disadvantage where differences in ownership and legal form affect firm performance. The welfare implications of guaranteeing the position of incumbents in protected markets are considered in a subsequent section.

c. Precommitment to Future Liberalization

Finally, there is the question of the role of the GATS as a vehicle for promoting future liberalization. One reason for the reluctance of governments to liberalize immediately is the perceived need to protect the incumbent public/national suppliers from immediate competition - either because of the infant

⁴⁸ To see the nature of the problem, consider the following example. Say country A had allowed a firm from country B to establish a fully owned subsidiary in 1990. If it made a specific commitment under GATS to allow commercial presence through fully-owned foreign subsidiaries, then it would be obliged to allow firms from all Members to establish under similar conditions. The implied level of openness was apparently unacceptable for country A. If, however, market access was bound only for, say, minority owned foreign firms, then the existing firm from country B would have no guarantee that it would not one day be asked to disinvest. Such an uncertain situation evoked significant concern in existing investors from country B.

⁴⁹This paper does not discuss the legal implications of the grandfathering provisions.

industry type of argument or to facilitate "orderly exit". In the financial sector, the vulnerability of domestic suppliers is related to a larger concern about the stability of the financial system. The fear is that inefficient or otherwise handicapped domestic banks, if exposed to competition, may fail and set off a chain reaction affecting other financial institutions.⁵⁰

One reason for the failure of infant industry policies in the past, and the innumerable examples of perpetual infancy, was the inability of a government to commit itself credibly to liberalize at some future date -- either because it has a stake in the national firm's continued operation, or because it is vulnerable to pressure from interest groups which benefit from protection.⁵¹ The GATS offers a valuable mechanism to overcome the difficulty of making credible commitments to liberalize - commitments to provide market access and national treatment at a future date are binding under WTO law. Failure to honour these commitments would create an obligation to compensate those who are

⁵⁰For instance, the presence of too many financial institutions is sometimes cited as an argument against liberalization in financial services trade. To the extent that this reflects concern about the viability of individual financial institutions, it is best addressed through prudential measures and measures to facilitate orderly exit from the market. In Argentina, for instance, one quarter of the country's 200 banks were liquidated in 1995 and 1996. See also Kono et al. (1997).

⁵¹National firms often behave as if they prefer to operate as high cost, poor quality producers in protected markets than as low cost/high quality producers facing international competition. This may be because of the profitability of protection, or the greater utility that managers and workers derive from operating in sheltered environments. In any case, when the government cannot credibly commit itself to liberalize, then national firms may have an incentive to precommit to high costs or poor quality, in an environment of slow learning and under-investment in research and development. Such behaviour by the firm, either for strategic reasons or on account of inertia, forces governments to prolong socially costly protection. Related arguments have been made in Staiger and Tabellini (1987) and Tornell (1991).

deprived of benefits. This need to compensate does in fact make the commitment more credible than a mere announcement of liberalizing intent in the national context. A precommitment to liberalize can also instill a sense of urgency in domestic reform, and in efforts to develop the necessary regulatory and supervision mechanisms.

Several governments have taken advantage of this mechanism to strike a balance between, on the one hand, their reluctance to unleash competition immediately on protected national suppliers, and, on the other hand, their desire not to be held hostage to the weakness of domestic industry in perpetuity. India and the Philippines have committed to allowing an increased number of branches rather to a change in regime (Table 7). The Czech and Slovak Republics will endeavour to remove or reduce the scope of monopolies in certain areas where insurance is compulsory.⁵² Egypt and Slovenia will relax certain elements of discretionary licensing, whereas Hungary, Poland and Slovenia will allow branches of financial institutions to operate. Bulgaria and Egypt have committed to allow majority foreign ownership in insurance in the near future, while Thailand has created a 10 year window of opportunity for foreign investors to acquire higher equity shares than the maximum 25 per cent normally permitted - subject to the approval of the Ministry of Finance.⁵³ The commitments by Hungary, Slovenia and Brazil are interesting in that they have been made contingent on parliamentary approval of new legislation. This approval is not certain, but the current commitment has value because there is an obligation immediately to translate future domestic law into an international commitment.

However, on the whole it must be said that the use of the GATS as a mechanism for lending credibility

⁵²This is by virtue of their subscription to the Understanding on Commitments on Financial Services.

⁵³The recommendation must come from the Bank of Thailand and the relaxation must be "deemed necessary to improve the condition or business of the commercial bank". This is one of the few instances in the GATS of a temporary liberalization commitment.

to liberalization programmes has been somewhat disappointing. The result in financial services compares unfavourably with the experience in the basic telecommunication negotiations (see Low and Mattoo, 1997), though it must be recognized that financial markets are generally much more competitive than those in basic telecommunications. Again it is possible that many governments were reluctant to tie their hands in the environment of financial instability in which the negotiations were concluded.

5. INCREASED COMPETITION VERSUS FOREIGN EQUITY PARTICIPATION

As we saw above, the pattern of policy differs across regions. These differences reflect in part differences in political attitudes to foreign direct investment, and varying degrees of concern about the prospect of foreign ownership and control in financial services. The political economic reasons for these differences are worth examining, but here we focus on the economic consequences of different combinations of policy. The focus is on two aspects of the commitments undertaken: liberalization of entry into the industry and increased scope for foreign ownership (and/or control). How does the basic conclusion of the literature on privatization, that it is increased competition rather than changes in ownership which produce major welfare benefits, need to be modified in the present context?

First, consider the impact of GATS commitments on the degree of competition in a market. A multilateral commitment by a government to allow entry influences the degree to which markets are contestable. Regardless of the existing market structure, established suppliers in the market are likely to behave more competitively if the government promises to create no legal barriers to entry. And we know that increased competition brings benefits both through promoting allocative efficiency, i.e. pricing close to costs, and internal efficiency, producing at least cost. Conversely, privately efficient profit-seeking behind protective barriers cannot be expected to lead to socially efficient results.

In light of the emphasis in the GATS negotiations upon increasing permitted (or maintaining existing) levels of foreign equity participation, consider the implications of a situation in which foreign participation has been permitted without an increase in the degree of competition allowed to occur in the market. Foreign investment clearly brings benefits even in situations where it does not lead to enhanced competition. First, allowing foreign equity participation may relax a capital constraint which could otherwise result in socially suboptimal levels of investment in the sector. Furthermore, the benefits of increased investment in helping to recapitalize troubled financial institutions in many developing countries cannot be underestimated. In fact, one reason why countries may have chosen to restrict new entry while allowing foreign equity participation, is probably because they would like new foreign capital to help strengthen weak domestic financial institutions rather than to come in the form of highly competitive new banks and insurance companies which might drive their domestic rivals out of business. Second, foreign equity participation may serve as a vehicle for transferring technology and know-how. The benefits come not only in the form of technological innovations, such as new methods of electronic banking, but also in terms of improved management and credit assessment techniques, as well as higher standards of transparency and self-regulation.

Against these benefits, there may well be costs associated with foreign direct investment when competition is restricted. If foreign investment comes simply because the returns to investment are artificially raised by restrictions on competition, then the cost to the host country may exceed the benefits, because the returns to the investor will be greater than the true social productivity of the investment (see Hindley and Smith, 1984). To some extent rent appropriation can, of course, be prevented by profit taxation or by holding competitive auctions of licenses or equity. The rents would then accrue either to the government or to existing national shareholders, but the static and dynamic inefficiencies

consequent upon lack of competition would still exist.⁵⁴

As noted above, in both insurance and banking, there is a tendency among Latin American countries to impose restrictions on (or not guarantee) entry, whereas in Asia, entry limitations are accompanied in many cases by restrictions on foreign equity as well. It is, of course, possible for competition to come through the other modes, cross border supply and consumption abroad, where these modes of delivery are feasible. Here again, many more Asian countries have made liberal commitments than Latin American. It could be argued that neither group has chosen the first best (at least in static terms) of liberalized entry conditions for both domestic and foreign entrants. But *given* the restrictions on entry, the Asian group's propensity to impose equity limitations may reflect an attempt to strike a balance between the benefits and costs of foreign equity in protected markets. The Latin American group, with some exceptions, seems to have revealed a preference for unconstrained foreign equity participation even in the absence of free entry conditions.

Could it be that the markets in these countries are already so competitive that liberalization of further entry would only have a limited impact on firm performance? Evidence presented in Sorsa (1997) leads to the opposite conclusion. She finds that crude concentration ratios - defined as the share of the largest bank in total banking assets - are somewhat higher in developing and transition markets than in industrial countries. Hong Kong, Mexico, Korea, Brazil and the Philippines have low concentration ratios whereas Chile, Hungary, India, Israel, Morocco and Slovakia have high ones. At the same time,

⁵⁴Creating discriminatory profit tax regimes would have negative incentive effects on new foreign investment, but such regimes are ruled out, of course, where commitments are undertaken to provide national treatment. Furthermore, while equity auctions may prevent net profit transfers abroad through new acquisitions, and license auctions achieve the same vis-a-vis new entrants, neither addresses appropriation by existing foreign share owners. In this context, the grandfathering commitments assume particular significance.

profitability indicators are found to be higher in many developing and transition markets than in the OECD countries. The 1994 data indicate that South Africa, Chile, Pakistan, Malaysia, Thailand and Romania had among the most profitable banking sectors among emerging markets. These high profits may be symptomatic of limited competition, because of restrictions either on establishment or the other modes of supply. It is also relevant that spreads (lending less deposit rates) are found to be generally higher in the developing and transition country markets than in industrial countries, suggesting that there remains scope for improving efficiency of financial intermediation.⁵⁵ Finally, the share of foreign assets in total financial sector assets was already high in several countries. Poland, Egypt, Turkey, Singapore and Hong Kong already have shares of 20 per cent or more.

Since the rent-appropriation concerns about foreign direct investment arise in imperfectly competitive situations, one question is whether such market structures are inevitable. While fully competitive markets may not exist where the optimal scale of operation is high, the high degree of concentration in certain countries is almost certainly a consequence of the policy barriers to entry. Some of the possible economic reasons for such barriers have been mentioned above, and range from the inadequacies of domestic regulation to variants of the infant industry argument. But these arguments for restricting competition must be temporary. Eventually, it is sound prudential regulation and adequate supervision which must be guarantors of the stability of the financial sector rather than economically costly restraints on competition.

⁵⁵The difference in spreads could of course reflect a variety of factors, including differences in the risk premium.

6. CONCLUSION

The financial services negotiations under the GATS have contributed to the creation of stable and transparent policy regimes in many developing and transition countries. However, even though the number of countries that participated in the eventual agreement was impressive, the liberalizing content of commitments was variable. In general, the African and Eastern European participants made much more liberal commitments than the Asian and Latin American participants. Given that there exist adequate safeguards in the GATS to ensure that liberalization commitments do not threaten macroeconomic stability or compromise the ability to pursue sound regulatory policies, the reason for the limited commitments may not be obvious. But to those familiar with the mercantilist nature of WTO negotiations, it is the fact that many countries without no export interest in financial services made any commitments at all that is surprising. The outcome probably reflects the balancing by each participant of the benefits of unilateral bindings against the gain from retaining bargaining chips for future multi-sectoral negotiations.

Two specific aspects of the commitments also raise concerns. There has been less emphasis on the introduction of competition through new entry than on allowing (or maintaining) foreign equity participation in existing financial institutions and protecting the position of incumbents. In some cases, the particular choice of policies may have been forced by the current financial crisis - dictating that foreign capital be allowed to enter only as an injection into weak domestic industry rather than as new competition. At the same time, few guarantees have been made of competition through cross border supply, presumably because of concerns about regulatory difficulties and the implied capital mobility. Lack of competition is undesirable in itself, but even more so when it provides an opportunity for foreign rent appropriation. This does not imply that countries should impose restrictions on foreign investment, but rather that the benefits to a country from foreign investment are likely to be greater if it

does not impose restrictions on entry.

Even where immediate introduction of competition was deemed infeasible, the GATS has not been fully utilised to lend credibility to liberalization programmes by precommitting to future market access. It is conceivable that immediate liberalization was not desirable because domestic financial institutions and regulators were not equipped to deal with a high degree of competition. But commitments to liberalize in the future would have served to confront domestic industry with a credible deadline and domestic regulators with a clear timetable to develop the necessary mechanisms for prudential regulation and supervision. While many governments may have been unwilling to tie their hands in the precarious financial situation which prevails today, the commitments themselves could have contributed to creating greater stability.⁵⁶

This paper has concentrated on the GATS commitments of countries, apart from the brief discussion of their relationship to actual policies in Section IV. It is probable that in many cases, commitments under GATS reflect actual trade policies (i.e. countries simply bind the status quo) but, as the discussion in Section IV shows, this is not always true. In particular, when a service is not listed in a Member's schedule or a specific mode is unbound, schedules provide no clue as to what actual policies may be. Further empirical research is needed to obtain a more comprehensive picture of the policies governments actually pursue with respect to the financial sector. It should then be possible to examine more thoroughly not only the determinants of trade policy (such as the conditions in the domestic financial sector, the adequacy of regulatory mechanisms, and political economy aspects) but also what influences the relationship between actual policy and GATS commitments (benefits of binding versus

⁵⁶There is no evidence, however, that in the financial crisis during the final months of the negotiations governments went back on what they intended to do.

the costs of giving up policy flexibility or negotiating currency). Finally, more research is needed to study the impact of trade policy choices (both national and in terms of international commitments) on the performance of the financial sector and the economy more generally.⁵⁷

⁵⁷An example of recent research along these lines is the paper by Clessens and Glaessner (1997).

ANNEX 1: NUMERICAL ANALYSIS

This Annex takes some preliminary steps towards quantifying the commitments on financial services (building on the approach of Hoekman, 1995). To begin with, two issues need to be addressed. The first concerns the relative importance of the modes of supply in specific sectors, and the second the relative restrictiveness of different measures.

Modal weights

Available statistics do not enable a precise identification of even revealed patterns of trade by different modes, let alone of patterns in the absence of policy restrictions, which is what we are really interested in. The only country which reports statistics on establishment trade on a regular basis is the United States. These data are presented in following table, along with data from balance-of-payments statistics which approximate cross-border trade. In insurance, establishment trade is three and a half times greater than cross-border trade for imports, and more than six times as large as cross-border trade for exports. In banking and securities services, establishment trade is three-and a half times greater than cross-border trade for imports and more than twice as large for exports.

Annex Table 1: United States Financial Services Trade by Modes of Supply¹, 1994
(US\$ billion)

	<u>Mode 1: Cross-border trade</u>		<u>Mode 3: Commercial Presence</u>	
	Exports	Imports	Exports	Imports
Insurance Services ²	4.90	13.90	30.90	48.70
Banking and Securities ³ Services	6.10	1.70	14.00	5.90

Source: Survey of Current Business (1996, November), USITC (1997) .

¹These statistics only provide an approximation to trade through the different modes of supply defined in the GATS.

²All trade figures for insurance services are presented on a gross basis, i.e., imports comprise premiums paid for foreign insurance coverage and exports comprise premiums received from foreign policyholders. No deductions are made for claims received from foreign insurers or payments for foreign claims because such statistics are available only for cross-border trade, and not for establishment trade. Ideally, of course, insurance services should be valued by service charges included in total premiums earned rather than by total premiums.

³Banking and securities services cover financial intermediary and auxiliary services (except those of insurance enterprises and pension funds). Included are intermediary service fees, such as those associated with letters of credit, bankers' acceptances, lines of credit, financial leasing, and foreign exchange transactions. Also included are commissions and fees related to transactions in securities - brokerage, placements of issues, underwritings, redemptions, and arrangements of swaps, options, and other hedging instruments; commissions of commodity futures traders; and services related to asset management, financial market operational and regulatory services, security custody services, etc.

While these statistics confirm that commercial presence is currently the most important mode of supplying financial services, its relative importance is likely to differ between sub-sectors. For instance, it would seem that consumers are much less likely to make cross-border purchases of life insurance than of freight insurance. Similarly, they are less likely to deposit money in a bank located abroad than to borrow money from a bank located abroad. We need also to consider the relative importance of cross-border supply and consumption abroad. A key difference between the two modes is that under the GATS, commitments to allow cross-border supply of a service oblige a Member to allow the necessary capital movements, while those to allow consumption abroad do not (see Section II). Therefore, the former commitments can be argued to have much greater value than the latter.

On this basis of these considerations, and broadly taking into account the differences between the sectoral coverage of the US data and our study, the modal weights presented below in Annex Table 2 were used. It is recognized, of course, that these weights provide only the roughest idea of the relative importance of modes, though it can be said, in their defence, that the results were not very sensitive to changes in their values.

Annex Table 2: Modal Weights in Insurance and Banking

	<u>Cross-border supply</u>	<u>Consumption abroad</u>	<u>Commercial presence</u>
Insurance:			
Life	0.12	0.03	0.85
Non-life	0.20	0.05	0.75
Banking:			
Deposits	0.12	0.03	0.85
Lending	0.20	0.05	0.75

Quantifying the restrictiveness of measures

Again we adopt the simplest approach which enables us to capture the essence of the commitments.

With respect to each mode, a numerical value of zero was attached to entries of "unbound" and a value of one to entries of "none". The interesting question pertains to how the presence of specific restrictions is to be evaluated. In the case of the first two modes, restrictions often take the form of excluding certain sub-sectors from the scope of the commitment. It is difficult to judge the economic significance of these exclusions. Therefore, a distinction was not made and a value of 0.5 was attached in all cases of restrictions on the first two modes.

With respect to commercial presence, a slightly more sophisticated approach was adopted. This was based on first identifying the "most restrictive measure" specified, and then applying a value based on an assessment of its restrictiveness. Thus, the presence of any of the following limitations led to the indicated value being attached (regardless of whether other less restrictive measures were also applied):

No new entry or unbound for new entry	0.10
Discretionary licensing for new entry	0.25
Ceiling on foreign equity at less than 50%	0.50
Ceiling on foreign equity at more than 50%	0.75
Restrictions on the legal form of commercial presence	0.75
Other minor restrictions	0.75

Giving a higher value to the presence of restrictions than to an entry of "unbound" reflects the judgement that a binding in itself has liberalizing value (see also Francois and Martin, 1996).

The results

In each sector, the liberalization index, L , for each country, j , is defined as:

$$L^j = \sum w_i r_i^j \text{ summed over } i = 1, 2, 3$$

where w_i is the modal weight

and r_i is the numerical value of the most restrictive measure applied by country j to mode i .

The liberalization index is thus the modal weighted average of the value of the most restrictive measure applied by a country to each mode in the sector.

The regional liberalization indices were calculated either as simple averages of country indices or as GDP share weighted averages. That is:

$$\text{simple } L = \sum L^j / n, \quad \text{summed over } j = 1 \dots n,$$

$$\text{weighted } L = \sum g^j L^j \quad \text{summed over } j = 1 \dots n,$$

where n are the number of countries in the region,

and g^j is the share of each country in the region's GDP.

Tables (3) and (5) present the results obtained. Higher values of the liberalization index indicate that commitments have a greater liberalizing content.

Annex Table 3: Liberalization Indices for Banking and Direct Insurance

Country	Banking		Direct Insurance	
	Accept. of Deposits	Lending	Life Insurance	Non-life Insurance
AFRICA	0.65	0.58	0.60	0.58
Angola	0.99	0.03		
Egypt, Arab Rep.	0.21	0.19	0.36	0.24
Gabon	0.00	0.44	0.36	0.44
Gambia, The	0.15	0.25	1.00	1.00
Ghana	1.00	1.00	0.64	0.69
Kenya	1.00	1.00	0.64	0.88
Lesotho	0.64	0.56	0.67	0.61
Malawi	1.00	1.00		
Mauritius	0.21	0.19	0.21	0.19
Morocco	0.85	0.29	0.21	0.19
Mozambique	1.00	1.00		
Nigeria	0.64	0.56	0.64	0.66
Senegal	0.64	0.56	0.85	0.75
Sierra Leone	0.79	0.81	0.85	0.75
South Africa	0.85	0.75	0.67	0.61
Tunisia	0.36	0.44	0.64	0.56
Zimbabwe	0.79	0.81		
ASIA & PACIFIC	0.37	0.43	0.46	0.46
Bahrain	0.58	0.63	1.00	1.00
Brunei			0.24	0.21
Hong Kong	0.46	0.80	0.67	0.59
India	0.21	0.19	0.00	0.10
Indonesia	0.24	0.33	0.85	0.75
Israel	0.85	0.88	0.85	0.75
Korea, Rep.	0.21	0.19	0.43	0.48
Kuwait	0.24	0.34		
Macao	0.24	0.24	0.67	0.59
Malaysia	0.12	0.20	0.09	0.20
Pakistan	0.21	0.19	0.64	0.19
Papua New Guinea	1.00	1.00		
Philippines	0.24	0.24	0.21	0.29
Qatar	0.15	0.25	0.00	0.25
Singapore	0.12	0.61	0.12	0.10
Solomon Islands	1.00	1.00	1.00	1.00
Sri Lanka	0.21	0.19	0.21	0.29
Thailand	0.09	0.08	0.24	0.34
Turkey	0.64	0.56	0.64	0.69
United Arab Emirates	0.15	0.25		
EASTERN EUROPE	0.60	0.63	0.52	0.53
Bulgaria	0.64	0.56	0.64	0.66
Czech Republic	0.64	0.81	0.43	0.40
Hungary	0.21	0.19	0.21	0.31

Annex Table 3: Liberalization Indices for Banking and Direct Insurance

Country	Banking		Direct Insurance	
	Accept. of Deposits	Lending	Life Insurance	Non-life Insurance
Poland	0.64	0.56	0.64	0.56
Romania	0.99	0.98	0.64	0.56
Slovak Republic	0.64	0.69	0.43	0.50
Slovenia	0.43	0.63	0.64	0.69
LATIN AMERICA	0.48	0.45	0.35	0.31
Argentina	0.88	0.80	0.00	0.13
Bolivia	0.64	0.56	0.21	0.19
Brazil	0.21	0.19	0.21	0.29
Chile	0.21	0.19	0.21	0.19
Colombia	0.21	0.19	0.21	0.29
Costa Rica	0.64	0.56		
Dominican Republic	0.21	0.19	0.21	0.19
Ecuador	0.24	0.33	0.09	0.08
El Salvador	0.21	0.19		
Guyana	1.00	1.00	1.00	1.00
Haiti	1.00	1.00		
Honduras	0.21	0.19	0.21	0.19
Jamaica	0.85	0.75	0.21	0.19
Mexico	0.43	0.38	0.43	0.38
Nicaragua	0.21	0.19	0.21	0.19
Panama	1.00	1.00	0.85	0.75
Paraguay	0.85	0.75	0.85	0.75
Peru	0.21	0.19	0.21	0.19
Uruguay	0.21	0.19	0.64	0.19
Venezuela	0.21	0.19	0.21	0.19
DEVELOPED	0.79	0.74	0.71	0.697
Australia	0.67	0.80	0.85	0.69
Canada	0.67	0.61	0.64	0.69
EC	0.67	0.61	0.64	0.69
Iceland	0.88	0.80	0.64	0.59
Japan	0.88	0.80	0.85	0.88
New Zealand	0.88	0.80	0.85	0.69
Norway	0.88	0.80	0.64	0.69
Switzerland	0.88	0.80	0.64	0.69
USA	0.67	0.61	0.64	0.69
ALL COUNTRY AVERAGE	0.54	0.53	0.50	0.49

Table 1: Numerical summary of Commitments on Modes 1, 2 and 3 in Direct Insurance and Banking (Acceptance of Deposits and Lending)
(No. and per cent share of GDP)

Region	Total WTO Members (% share of GDP of all Members)	Members with commitments (% share of GDP of all Members in region)	Members with full commitments on all three modes	Commitments on cross border supply (mode 1)		Commitments on cross border supply (mode 2)		Commitments on commercial presence (mode 3)				
				Full	Limited	Full	Limited	Full or ltms. Only on the legal form	Limited			
									No. of ssrs: U, limited, DL or R	Foreign equity ltms.	Other significant ltms.	
Direct insurance												
Africa	41 (1.5%)	13 (80%)	1 (0%)	2 (1.7%)	5 (40%)	5 (62%)	3 (11%)	7 (66%)	3 (13%)	2 (5%)		
									1 both (16%)			
Asia and Pacific	25 (7.6%)	17 (95%)	2 (0.3%)	2 (0.3%)	8 (68%)	3 (9%)	7 (23%)	7 (32%)	1 (0.4%)	1 (24%)		
									8 both (43%)			
Eastern Europe	7 (1.1%)	7 (100%)	0 (0%)	0 (0%)	5 (47%)	0 (0%)	4 (43%)	2 (53%)	3 (37%)	1 (4%)		
									1 both (6%)			
Latin America	32 (32%)	18 (97%)	1 (0%)	1 (0%)	3 (66%)	1 (0%)	1 (0%)	3 (1%)	11 (81%)	2 (16%)		
									2 both (1%)			
Total	105 (16.4%)	55 (95%)	4 (0.2%)	5 (0.3%)	21 (64%)	9 (9%)	15 (19%)	19 (24%)	18 (35%)	6 (18%)		
									12 both (22%)			
Banking: Acceptance of deposits and lending of all types												
Africa	41 (1.5%)	18 (84%)	5 (6%)	8 (14%)	4 (13%)	8 (14%)	3 (1.5%)	10 (78%)	5 (10%)	1 (2%)		
									2 both (10%)			
Asia and Pacific	25 (7.6%)	19 (98%)	2 (0.3%)	6 (13%)	3 (10%)	10 (26%)	2 (9%)	3 (5%)	4 (10%)	1 (0.3%)	1 (8%)	
									10 both (76%)		8 coexist	
Eastern Europe	7 (1.1%)	7 (100%)	0 (0%)	1 (12%)	3 (28%)	0 (0%)	4 (40%)	5 (79%)	2 (21%)	0 (0%)		
Latin America	32 (6.2%)	20 (98%)	3 (0.6%)	4 (2%)	0 (0%)	5 (19%)	0 (0%)	8 (20%)	9 (20%)	1 (16%)	1 (0.6%)	
									2 both (44%)			
Total	105 (16.4%)	64 (97%)	10 (1%)	19 (9%)	10 (8%)	23 (16%)	8 (7%)	26 (22%)	20 (15%)	3 (6%)	1 (4%)	
									14 both (53%)			

Note: Unless otherwise indicated (as in the second and third columns), percentages for each region are calculated as a share of GDP of all countries with commitments in the region. In the rows indicating the totals, percentages are calculated as a share of GDP of all countries with commitments (other than developed countries).

Table 2: Market access commitments under the GATS on insurance (life and non-life)

Region	Full commitment s on first three modes	Commitments on cross border supply (mode 1)		Commitments on consump- tion abroad (mode 2)		Commitments on commercial presence			
		Full	Limited	Full	Limited	Full or ltns only on the legal form	Limitations on		
							Only no. of suppliers (U, ltd, DL, R)	Only foreign equity	Both no. of ssrs. And foreign equity
Africa	Gambia	Gabon, Gambia	Egypt, Ghana, Kenya, Nigeria, Tunisia	Egypt, Gabon, Gambia, Lesotho, South Africa	Ghana, Kenya, Tunisia	Gambia, Lesotho, Nigeria, Senegal, Sierra Leone, South Africa	Gabon, Mauritius, Morocco	Ghana, Kenya	Egypt
Asia and Pacific	Bahrain, Solomon Islands	Bahrain, Solomon Islands	India, Korea, Malaysia, Philippines, Qatar, Sri Lanka, Thailand, Turkey	Bahrain, Solomon Islands, Thailand	Brunei D., Hong Kong, macau, Malaysia, Qatar, Sri Lanka, Turkey	Bahrain, Hong Kong, Indonesia, Israel, Macau, Solomon Islands, Turkey	Qatar	Korea	Brunei D., India, Malaysia, Pakistan, Philippines, Singapore, Sri Lanka, Thailand
Eastern Europe	-	-	Bulgaria, Czech Rep., Hungary, Slovak Rep., Slovenia	-	Czech Rep., Hungary, Slovak Rep., Slovenia	Poland, Romania	Czech Rep., Hungary, Slovak Rep.	Bulgaria	Slovenia
Latin and Central America	Guyana	Guyana	Argentina, Brazil, Columbia	Guyana	Argentina	Guyana, Pnanama, Paraguay	Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Jamaica, Nicaragua, Peru, Uruguay, Venezuela	Cuba, Mexico	Dominican Rep., Honduras

Table 3: Liberalization indices for direct insurance services

Direct Insurance				
	Simple Average		GDP Weighted Average	
	Life Insurance	Non-life Insurance	Life Insurance	Non-life Insurance
Africa	0.60	0.58	0.50	0.45
Asia	0.46	0.46	0.32	0.35
Eastern Europe	0.52	0.53	0.53	0.51
Latin America	0.35	0.31	0.23	0.26
Developed	0.71	0.70	0.68	0.72
All	0.50	0.49	0.62	0.66

Table 4: Market access commitments under the GATS on banking (acceptance of deposits and lending of all types)

Region	Full commitment s on first three modes	Commitments on cross border supply (mode 1)		Commitments on consump- tion abroad (mode 2)		Commitments on commercial presence			
		Full	Limited	Full	Limited	Full or ltns only on the legal form	Limitations on		
							Only no. of suppliers (U, ltd, DL, R)	Only foreign equity	Both no. of ssrs. And foreign equity
Africa	Ghana, Kenya, Malawi, Mozambique, Sierra Leone	Gambia, Ghana, Kenya, Malawi, Mozambique, Sierra Leone, Tunisia, Zimbabwe	Angola, Benin, Gabon, Morocco	Gambia, Ghana, Kenya, Malawi, Mozambique, Sierra Leone, Tunisia, Zimbabwe	Benin, Gabon	Egypt, Ghana, Kenya, Lesotho, Mozambique, Sierra Leone, Nigeria, Senegal, South Africa	Angola, Benin, Gabon, Morocco, Mauritius, Tunisia	Zimbabwe	Gambia, Morocco
Asia and Pacific	PNG, Solomon Islands	Bahrain, Indonesia, PNG, Qatar, Solomon Islands, UAE	Israel, Kuwait, Malaysia	Bahrain, Hong Kong, Indonesia, Kuwait, Macau, PNG, Philippines, Qatar, Solomon Islands, UAE	Israel, Malaysia	Israel, PNG, Solomon Islands	Macau, UAE, Hong Kong, Qatar	Bahrain	India, Indonesia, Korea, Kuwait, Malaysia, Pakistan, Philippines, Singapore, Sri Lanka, Thailand
Eastern Europe		Romania	Czech Rep., Slovak Rep., Slovenia		Czech Rep., Romania, Slovak Rep., Slovenia	Bulgaria, Czech Rep., Poland, Romania, Slovak Rep.	Hungary, Slovenia		
Latin and Central America	Guyana, Haiti, Panama	Ecuador, Guyana, Haiti, Panama		Argentina, Ecuador, Guyana, Haiti, Jamaica, Panama, Paraguay		Argentina, Bolivia, Costa Rica, Guyana, Haiti, Jamaica, Panama, Paraguay	Chile, Colombia, Ecuador, El Salvador, Honduras, Nicaragua, Peru, Uruguay, Venezuela	Mexico	Brazil, Dominican Rep.

Table 5: Liberalization indices for banking (acceptance of deposits and lending)

Banking				
	Simple Average		GDP Weighted Average	
	Acceptance of Deposits	Lending	Acceptance of Deposits	Lending
Africa	0.65	0.58	0.63	0.52
Asia	0.37	0.43	0.29	0.30
Eastern Europe	0.60	0.63	0.61	0.61
Latin America	0.48	0.45	0.39	0.35
Developed	0.79	0.74	0.71	0.65
All	0.54	0.53	0.66	0.61

Table 6: Grandfather provisions in GATS Schedules on banking and insurance services (continued)

Country	Provision
<i>Foreign equity-related</i>	
Indonesia	<i>Banking and insurance:</i> Share ownership of foreign services suppliers is bound at the prevailing laws and regulations. The conditions of ownership and the percentage share of ownership as stipulated in the respective shareholder agreement establishing the existing individual joint venture shall be respected. No transfer of ownership shall take place without the consent of all parties in the joint venture concerned.
Malaysia	<i>Banking:</i> Entry is limited to equity participation by foreign banks in Malaysian-owned or controlled commercial and merchant banks with aggregate foreign shareholding not to exceed 30 per cent, but the thirteen wholly-foreign owned commercial banks are permitted to remain wholly-owned by their existing shareholders. <i>Insurance:</i> New entry is limited to equity participation by foreign insurance companies in locally incorporated insurance companies with aggregate foreign shareholding not to exceed 30 per cent. Foreign shareholding not exceeding 51 per cent is also permitted when (i) existing branches of foreign insurance companies are locally incorporated, which they are required to be by 30 June 1998, and (ii) for the existing foreign shareholders of locally incorporated insurance companies which were the original owners of these companies.
Pakistan	<i>Insurance:</i> Foreign shareholding in new life insurance companies is limited to 51 per cent and in existing to 25 per cent, but the scope of operations and equity structure of existing foreign companies is guaranteed.
Philippines	<i>Insurance and banking:</i> New investments of up to 51 per cent of the voting stock, but existing investments of foreign banks will be maintained at their existing levels.
<i>Legal form-related</i>	
Brazil	<i>Banking:</i> Banks established before 5 October 1988, are allowed to maintain the aggregate number of branches that existed on that date. However, for banks authorized to operate after that date, the number of branches is subject to the conditions set out, in each case, at the time authorization is granted.
Hong Kong	<i>Banking:</i> The condition that branches of foreign banks are allowed to maintain offices in one main building and no more than two additional offices in separate buildings, does not apply to banks incorporated outside HKSAR licensed before May 1978 in respect of fully licensed banks and before April 1990 in respect of restricted licence banks.
Indonesia	<i>Banking:</i> Existing branches of foreign banks are exempted from the requirement imposed on new entrants to be in the form of locally incorporated joint venture banks.
Malaysia	<i>Insurance:</i> Branching is only permitted for direct insurance companies with aggregate foreign shareholding of less than 50 per cent but companies are permitted to maintain their existing network of branches. (See also foreign equity-related provision above.)
Pakistan	<i>Banking:</i> While new entrants are obliged to incorporate locally, the rights of existing branches of foreign banks are guaranteed.
Thailand	<i>Banking:</i> While the establishment of new branches is subject to discretionary licensing, existing foreign banks which already had the first branch office in Thailand prior to July 1995 will each be permitted to open no more than two additional branches.
<i>General</i>	
Philippines	<i>Insurance:</i> Limitations in market access listed in the specific insurance sub-sectors do not apply to existing wholly or majority foreign-owned authorized insurance/reinsurance companies as of the entry into force of the WTO Financial Services agreement.

Table 7: Precommitments to future liberalization and standstill commitments under GATS in banking and insurance

Country	Commitment
Egypt	<i>Insurance:</i> relaxation of economic needs test in the year 2000 for life and 2002 for non-life insurance; foreign equity limit increased from 49 per cent to 51 per cent as of 1 January 2000 for life and 1 January 2003 for non-life.
India	<i>Banking:</i> 12 branch licenses per year both for new entrants and existing banks; subject to 15 per cent maximum share of foreign assets to the total assets of the banking system.
Indonesia	<i>Insurance and banking:</i> all limitations will be eliminated by the year 2020 subject to a similar commitment by other Members.
Korea	<i>Insurance and banking:</i> standstill for all market access limitations as of 31 August 1997.
Philippines	<i>Banking:</i> 10 new licenses for bank branches for the period 1995-2000.
Thailand	<i>Banking:</i> discretionary higher equity participation in banks than bound 25 per cent maximum for a period of 10 years, grandfathered thereafter for the absolute amount of equity held.
Bulgaria	<i>Insurance:</i> majority foreign ownership in insurance will be allowed 3 years after accession.
Czech Republic	<i>Insurance:</i> endeavour to eliminate or reduce scope of monopoly rights in compulsory insurance under Paragraph A1 of the Understanding on Financial Services.
Hungary	<i>Insurance:</i> market access for branches of insurance companies on adoption of legislation.
Poland	<i>Insurance and banking:</i> as of 1 January 1999, market access through licensed branches of banks and insurance companies will be allowed.
Slovak Republic	<i>Insurance:</i> endeavour to eliminate or reduce scope of monopoly rights in compulsory insurance under Paragraph A1 of the Understanding on Financial Services.
Slovenia	<i>Insurance:</i> 99 per cent limitation on foreign ownership of insurance companies will be abolished with the adoption of relevant law. <i>Banking:</i> branch banking will be allowed, and elements of discretionary licensing removed, after adoption of the new Banking Law.
Brazil	<i>Insurance:</i> commercial presence in work accident insurance, reinsurance and retrocession will be allowed within two years of adoption of legislation <i>Banking:</i> national treatment for commercial presence for services of credit cards and factoring within two years of adoption of legislation.
Nigeria, Turkey, Bulgaria, Czech Republic, Hungary, Slovak Republic	<i>Insurance and banking:</i> standstill under Paragraph A of the Understanding on Financial services.
Sri Lanka	<i>Banking:</i> standstill under Paragraph A of the Understanding on Financial services.

REFERENCES

- Bagwell, K., and R.W. Staiger (1996), 'Reciprocal Trade Liberalization', National Bureau of Economic Research Working Paper, 5488, Cambridge, MA.
- Claessens, S. and T. Glaessner (1997), 'Internationalization of Financial Services in Asia', mimeo., World Bank, Washington, D.C.
- Francois, J.F., B. McDonald, and H. Nordstrom (1995), 'Assessing the Uruguay Round', in W. Martin and L.A. Winters (eds.), The Uruguay Round and the Developing Economies, World Bank Discussion Paper 307, Washington, D.C.
- Francois, J.F. and W. Martin (1996), 'Multilateral Trade Rules and the Expected Cost of Protection', mimeo.
- Hindley, B. and A. Smith (1984), 'Comparative Advantage and Trade in Services', *World Economy* , 7, 369-89
- Hoekman, B. (1995), 'Tentative First Steps: An Assessment of the Uruguay Round Agreement on Services', paper presented at the World Bank Conference on The Uruguay Round and the Developing Economies, Washington, D.C.
- Key, S.J. (1997), 'Financial Services in the Uruguay Round and the WTO', Group of Thirty Occasional Paper No. 54, Washington, DC.

Kono, M. and P. Low (1996), 'Financial Services in the GATS: A Continuing Negotiation', Geneva: World Trade Organization, mimeo.

Kono, M., P. Low, M. Luanga, A. Mattoo, M. Oshikawa and L. Schuknecht (1997), 'Opening Markets in Financial Services and the Role of the GATS', WTO, Geneva.

Low, P. (1995), 'Impact of the Uruguay Round on Asia: Trade in Services and Trade-Related Investment Measures', paper presented at the Asian Development Bank Conference on the Impact of the Uruguay Round on Asia, Manila.

Low, P. and A. Mattoo (1997), 'Reform in Basic Telecommunications and the WTO Negotiations: The Asian Experience', Geneva: World Trade Organization Working Paper, ERAD 9801.

Mattoo, A. (1997), 'National Treatment in the GATS: Corner Stone or Pandora's Box?', *Journal of World Trade*, vol. 31, 107-35.

Mattoo, A. and L. Schuknecht (1999), 'Explaining Liberalization Commitments in Financial Services Trade', mimeo.

Sorsa, P. (1997), 'The GATS Agreement on Financial Services - A Modest Start to Multilateral Liberalization', IMF Working Paper WP/97/55, Washington, D.C.: International Monetary Fund.

Staiger, R.W., and G. Tabellini (1987), 'Discretionary Trade Policy and Excessive Protection', *American Economic Review*, vol. 77, 823-37.

Tornell, A. (1991), 'Time Inconsistency of Protectionist Programmes', *Quarterly Journal of Economics*, vol. pp. 963-74.

United States International Trade Commission (USITC) (1997), 'Recent Trends in U.S. Services Trade', 1997 Annual Report Investigation No. 332-345, USITC, Washington, DC.

Policy Research Working Paper Series

	Title	Author	Date	Contact for paper
WPS2161	Will the Real "Natural Trading Partner" Please Stand Up?	Maurice Schiff	August 1999	M. Kasilag 39081
WPS2162	Quantifying the Fiscal Effects of Trade Reform	Shantayanan Devarajan Delfin S. Go Hongyi Li	August 1999	H. Sladovich 37698
WPS2163	Coverage under Old-Age Security Programs and Protection for the Uninsured — What Are the Issues?	Estelle James	August 1999	M. Leenaerts 84264
WPS2164	Challenging El Salvador's Rural Health Care Strategy	Maureen Lewis Gunnar S. Eskeland Ximena Traa-Valerezo	August 1999	M. Lewis 39080
WPS2165	The Russian City in Transition: The First Six Years in 10 Volga Capitals	Martha de Melo Gur Ofer	August 1999	H. Sladovich 37698
WPS2166	Seeking Votes: The Political Economy of Expenditures by the Peruvian Social Fund (FONCODES), 1991–95	Norbert R. Schady	August 1999	N. Schady 88247
WPS2167	Bonds and Bridges: Social Capital and Poverty	Deepa Narayan	August 1999	B. Jones 39475
WPS2168	Wage and Productivity Gaps: Evidence from Ghana	Dorte Verner	August 1999	H. Vargas 37871
WPS2169	Corruption, Public Finances, and the Unofficial Economy	Simon Johnson Daniel Kaufman Pablo Zoido-Lobaton	August 1999	D. Bouvet 35818
WPS2170	The Distributional Consequences of Monetary Policy: Evidence From Malaysia	Ilker Domaç	August 1999	A. Carcani 30241
WPS2171	Productivity Growth and Convergence In Agriculture and Manufacturing	Will Martin Devashish Mitra	August 1999	L. Tabada 36896
WPS2172	The East Asian Crisis: Investigating Causes and Policy Responses	Warwick McKibbin Will Martin	August 1999	L. Tabada 36896
WPS2173	The Intriguing Relation between Adult Minimum Wage and Child Labor	Kaushik Basu	August 1999	M. Mason 38811

Policy Research Working Paper Series

Title	Author	Date	Contact for paper
WPS2174 Prospective Deficits and the Asian Currency Crisis	Craig Burnside Martin Eichenbaum Sergio Rebelo	September 1999	E. Khine 37471
WPS2175 Sector Growth and the Dual Economy Model: Evidence from Côte d'Ivoire, Ghana, and Zimbabwe	Niels-Hugh Blunch Dorte Verner	September 1999	H. Vargas 37871
WPS2176 Fiscal Risks and the Quality of Fiscal Adjustment in Hungary	Hana Polackova Brix Anita Papp Allen Schick	September 1999	A. Panton 85433
WPS2177 Fiscal Adjustment and Contingent Government Liabilities: Case Studies Of the Czech Republic and Macedonia	Hana Polackova Brix Hafez Ghanem Roumeen Islam	September 1999	A. Panton 85433
WPS2178 Nonfarm Income, Inequality, and Land In Rural Egypt	Richard H. Adams Jr.	September 1999	M. Coleridge-Taylor 33704
WPS2179 How Child Labor and Child Schooling Interact with Adult Labor	Ranjan Ray	September 1999	M. Mason 30809
WPS2180 Regulating Privatized Infrastructures and Airport Services	Ofelia Betancor Robert Rendeiro	September 1999	G. Chenet-Smith 36370
WPS2181 Privatization and Regulation of the Seaport Industry	Lourdes Trujillo Gustavo Nombela	September 1999	G. Chenet-Smith 36370
WPS2182 The Integration of Transition Economies into the World Trading System	Constantine Michalopoulos	September 1999	L. Tabada 36896
WPS2183 Market Discipline and Financial Safety Net Design	Asli Demirgüç-Kunt Harry Huizinga	September 1999	K. Labrie 31001